IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5285 of 2007()

[CRIME NO.316/2007 OF SHORNUR POLICE STATION]

PETITIONERS/ACCUSED NO.1 & 2

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1. K.P.SUMAN, S/O PREMADASAN,
   AGED 22 YEARS, KUNNATH VEEDU, PARUTHIPRA,
   PALAKKAD DISTRICT.

2. BABU.P., S/O BALAKRISHNAN,
   AGED 22 YEARS, PARAPPALLIYALIL HOUSE,
   KANAYAM, PALAKKAD DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENT: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
REPRESENTING SUB INSPECTOR OF POLICE,
SHORNUR POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5285 of 2007

Dated this the 10th day of September 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2. The petitioners are named in the F.I.R. They, along with ten others not identified, are on the array of accused. The alleged incident took place on 16/8/2007. Investigation is in progress. The petitioners have not been arrested yet. The crime is seen registered inter alia under Sections 326 and 308 read with 149 I.P.C. Subsequently in the course of investigation, allegation under Section 326 I.P.C is not pressed, it is submitted.

2. The investigation is in progress. The petitioners apprehend imminent arrest. Political animosity is the alleged motive. The petitioners belong to A.B.V.P and the victims allegedly belong to S.F.I. The learned counsel for the petitioner submits that grave and serious allegations have been raised without any justification. The allegation under Section 326 I.P.C raised earlier have now been dropped. There is no semblance of data to even remotely suggest a successful prosecution under Section 308 I.P.C. The inclusion of Section 308 I.P.C reveals the prejudice of the investigating officer and their willingness to support the alleged victims who belong to the S.F.I. There are no circumstances whatsoever which would justify the raising of an allegation under Section 308 I.P.C.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that allegations are serious and there is possibility of a law and order situation resulting. In these circumstances, the petitioners may not be granted anticipatory bail, it is submitted.

4. Having considered all the relevant inputs - including the nature and gravity of the allegations, the nature of the weapons allegedly used and the nature of the injuries suffered, I am satisfied that there is merit prima facie in the contention that grave allegations not justified by facts are raised against the petitioners. I am satisfied, subject to appropriate conditions which shall allay the apprehension of the learned Public Prosecutor, anticipatory bail can be granted to the petitioners.

5. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 17/09/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 12 noon on 18/09/2007, 19/09/2007 and 20/09/2007 and thereafter the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

iv) The petitioners shall not enter the jurisdiction of Shornur police station until further orders except for the purpose of complying with condition No.iii) above.

(v) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(vi) If they were arrested prior to 17/09/2007, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 17/09/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007